

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RICKY L. THOMAS,

Plaintiff,

v.

SHIRLEY, *et al.*,

Defendants.

Case No. 1:23-cv-00470-JLT-BAM (PC)

**ORDER TO SHOW CAUSE WHY ACTION
SHOULD NOT BE DISMISSED FOR
FAILURE TO PROSECUTE**

(ECF No. 41)

TWENTY-ONE (21) DAY DEADLINE

Plaintiff Ricky L. Thomas (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s first amended complaint against Defendant DeGough (“Defendant”) for deliberate indifference in violation of the Eighth Amendment.

On October 25, 2024, Defendant filed a motion for summary judgment on the ground that Plaintiff failed to exhaust his administrative remedies. (ECF No. 41.) Together with the motion, Plaintiff was provided with notice of the requirements for opposing a motion for summary judgment. *Woods v. Carey*, 684 F.3d 934 (9th Cir. 2012); *Rand v. Rowland*, 154 F.3d 952, 957 (9th Cir. 1988); *Klinge v. Eikenberry*, 849 F.2d 409, 411–12 (9th Cir. 1988). (ECF No. 41-5.) Pursuant to Local Rule 230(l) and Federal Rule of Civil Procedure 6(d), Plaintiff’s opposition or statement of non-opposition was due on or before November 18, 2024. The deadline for Plaintiff to respond to Defendant’s motion for summary judgment has expired, and he has not otherwise

1 been in contact with the Court. Plaintiff will be permitted one final opportunity to show cause
2 why this action should not be dismissed without prejudice.

3 Accordingly, it is HEREBY ORDERED that Plaintiff shall show cause by WRITTEN
4 RESPONSE within **twenty-one (21) days** of service of this order why this action should not be
5 dismissed, without prejudice, for failure to prosecute. Plaintiff may comply with the Court's
6 order by filing an opposition or statement of non-opposition to Defendant's October 25, 2024
7 motion for summary judgment. **Plaintiff is warned that if he fails to comply with the Court's**
8 **order, this matter will be dismissed, without prejudice, for failure to prosecute.**

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10 IT IS SO ORDERED.

11 Dated: **December 3, 2024**

12 /s/ Barbara A. McAuliffe
13 UNITED STATES MAGISTRATE JUDGE
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